

JOSHUA P. THOMPSON, No. 250955  
Email: jthompson@pacificlegal.org  
WILSON C. FREEMAN, Ariz. Bar. No. 036953\*  
Email: wfreeman@pacificlegal.org  
Pacific Legal Foundation  
555 Capitol Mall, Suite 1290  
Sacramento, California 95814  
Telephone: (916) 419-7111  
Facsimile: (916) 419-7747

JACK E. BROWN, Va. Bar No. 94680\*  
Email: jbrown@pacificlegal.org  
Pacific Legal Foundation  
3100 Clarendon Boulevard, Suite 1000  
Arlington, Virginia 22201  
Telephone: (202) 888-6881  
Facsimile: (916) 419-7747

*Attorneys for Plaintiff*  
*\*pro hac vice*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

JOHN D. HALTIGAN,

Plaintiff,

v.

MICHAEL V. DRAKE, in his official  
capacity as President of the University of  
California; CYNTHIA K. LARIVE, in her  
official capacity as Chancellor of UC  
Santa Cruz; BENJAMIN C. STORM, in  
his official capacity as Chair of the UC  
Santa Cruz Psychology Department; and  
KATHARYNE MITCHELL, in her official  
capacity as Dean of the UC Santa Cruz  
Division of Social Sciences,

Defendants.

No. 5:23-cv-2437-NC

**SECOND AMENDED COMPLAINT**

## INTRODUCTION

1  
2 1. The University of California (University or UC) has adopted a modern-  
3 day loyalty oath for professors who seek to join the faculty. Today's loyalty oath does  
4 not demand a pledge that professors are not members of the Communist Party, but  
5 professed agreement with "Diversity, Equity, and Inclusion" (DEI) policies and  
6 ideology. The DEI Statements demanded by the University are a thinly veiled attempt  
7 to ensure dogmatic conformity throughout the university system.

8 2. This requirement is imposed on every applicant to a faculty position in  
9 the University by means of a DEI Statement Requirement which applicants must  
10 clear in order to even get a foot in the door. The University administration ensures  
11 conformity and compliance by promulgating detailed rubrics and guidelines that tell  
12 applicants exactly what to say and what not to say in their Statements.

13 3. Dr. John D. Haltigan challenges this functional loyalty oath as a  
14 violation of his rights under the First Amendment. He has a PhD in Developmental  
15 Psychology and is ready and able to apply to a position at UC Santa Cruz, but the  
16 stringent ideological requirements of the DEI Statement make his application futile.

17 4. Dr. Haltigan is challenging the University of California's DEI Statement  
18 Requirement because what was true for the anti-communist loyalty oaths of the Cold  
19 War era is still true today: The First Amendment does not tolerate laws that cast a  
20 pall of orthodoxy over the classroom. *Keyishian v. Bd. of Regents of Univ. of State of*  
21 *N.Y.*, 385 U.S. 589, 603 (1967). Academic freedom and freedom of expression demand  
22 that mandatory DEI Statements meet the same fate as the loyalty oaths of previous  
23 generations.

## JURISDICTION AND VENUE

24  
25 5. This action arises under the First and Fourteenth Amendments to the  
26 United States Constitution and 42 U.S.C. § 1983. This Court has jurisdiction over this  
27 federal claim under 28 U.S.C. §§ 1331 (federal question) and 1343(a)(3) (redress for  
28

1 deprivation of civil rights). Declaratory relief is authorized by the Declaratory  
2 Judgment Act, 28 U.S.C. § 2201.

3 6. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because a  
4 substantial part of the events or omissions giving rise to the claim occurred and  
5 continue to occur in this district.

### 6 **PARTIES**

7 7. Plaintiff John D. Haltigan is a U.S. citizen and resident of Pennsylvania.  
8 He has a PhD in Developmental Psychology from the University of Miami, and until  
9 early in 2023 served as an Assistant Professor in the Department of Psychiatry at the  
10 University of Toronto.

11 8. Defendant Michael V. Drake is the President of the University of  
12 California and is sued in his official capacity.

13 9. Defendant Cynthia K. Larive is the Chancellor of UC Santa Cruz and is  
14 sued in her official capacity.

15 10. Defendant Benjamin C. Storm is a professor of psychology and the Chair  
16 of the UC Santa Cruz Psychology Department. He is sued in his official capacity.

17 11. Defendant Katharyne Mitchell is a professor of sociology and the Dean  
18 of the UC Santa Cruz Division of Social Sciences. She is sued in her official capacity.

### 19 **FACTUAL BACKGROUND**

#### 20 **The Evolution of the DEI Statement in the University of California**

21 12. The University of California has long considered diversity to be an  
22 important value in faculty hiring.

23 13. Accordingly, in 2005, the University of California published a new  
24 section of its Academic Personnel Manual (APM) encouraging “diversity and equal  
25 opportunity.” This section was designed to ensure that faculty which put effort into  
26 promoting equal opportunity and diversity receive some credit, but not to displace or  
27 substitute for scholarly rigor, objectivity, and originality.  
28

1           14. Under the 2005 version of the APM, applicants were asked for DEI  
2 statements, but they were rarely decisive; DEI statements were weighed alongside  
3 more traditional measures of aptitude, including academic success, publications,  
4 research plans, and teaching ability.

5           15. Nor did the University provide prescriptive DEI statement guidelines  
6 and rubrics; the prevailing understanding of academic freedom prohibited the  
7 administration from dictating to faculty search committees about the beliefs of  
8 prospective academics.

9           16. Gradually, however, the University of California began to come under  
10 pressure to use DEI statements more aggressively to pursue ideological conformity  
11 and a vision of diversity focused on racial, ethnic, and gender balancing.

12           17. In 2015, the APM provision was revised, to add language that  
13 emphasized the importance of DEI achievement as compared to other traditional  
14 academic criteria.

15           18. In 2016, the California Budget Act allocated \$2 million to promote racial  
16 and gender diversity, requiring a report from the University on fund usage and the  
17 racial/ethnic and gender composition of the University.

18           19. As a result, UC established the Advancing Faculty Diversity (AFD)  
19 program, which supports projects to increase racial and gender balance on UC  
20 campuses.

21           20. In November 2017, the UC Office of the President (UCOP) issued a  
22 detailed report on its use of the state funds.

23           21. The UCOP explained that the UC system was “particularly focused” on  
24 increasing diversity along racial and ethnic lines.

25           22. The UCOP Report highlighted a number of tools that particular  
26 departments or campuses could use to achieve the goal of enhanced racial and ethnic  
27 balance, including DEI statements.

1           23. As explained in the UCOP Report, AFD had allocated the state's funds  
2 to pilot programs that aimed to advance faculty racial and ethnic balancing within the  
3 constraint of Prop 209.

4           24. Among these programs was \$600,000 for a UC Riverside program in the  
5 College of Engineering, which involved a unique approach to diversity statements.

6           25. UCOP highlighted UC Riverside as particularly successful because it  
7 resulted in a ten-fold increase in underrepresented minority finalists and a doubling  
8 of female representation.

9           26. According to UCOP, UC Riverside's success derived from their use of a  
10 simple rubric measuring research and diversity statements and particularly from  
11 their evaluation of DEI statements from the beginning of the candidate evaluation  
12 process and as part of the initial candidate screening.

13           27. In the following years, AFD received more state funding and has  
14 continued to build on its program to pursue racial balancing and ideological  
15 conformity and apply the lessons from the original effort. In 2018–19, AFD launched  
16 a grant program supporting campus efforts to increase diversity. This grant program  
17 is ongoing.

18           28. AFD has since launched five recruitment projects aiming to increase  
19 racial balance, at a total cost of about \$2.5 million, including a pilot program at UC  
20 Santa Cruz.

21           29. The AFD-funded pilot program at UC Santa Cruz focused on several  
22 elements. Most importantly, it emphasized that DEI statements should be an  
23 “important part” of the selection process, which must be considered in the first round  
24 of review. The program also encouraged search committees to engage in more in-depth  
25 discussions about the value of these statements.

26           30. However, some search committees at UC Santa Cruz disregarded the  
27 emphasis on screening based on DEI statements, fearing they might lose top  
28 candidates.

1           31. This led the University and the administration on the Santa Cruz  
2 campus to refocus search committees on the importance of using DEI Statements  
3 aggressively.

4           32. Collectively, these initiatives and pressures have utterly transformed the  
5 DEI Statement's purpose and use in the University of California system.

6           33. Importantly, this transformation involved the widespread adoption of  
7 the UC Riverside experiment to perform an initial screening of candidates based only  
8 on the diversity statements (the Initial Screening Requirement).

9           34. The other major change has been the widespread adoption of detailed  
10 rubrics and guidelines to ensure uniformity.

11           35. For example, around the same time that the California State legislature  
12 was giving money to the University to adjust the racial and gender balance in its  
13 faculty, the University's Academic Personnel and Programs Office (APP) issued more  
14 detailed guidelines for evaluating DEI statements.

15           **DEI Statements as Ideological Litmus Tests at UC Santa Cruz**

16           36. Following these developments, UC Santa Cruz now provides prospective  
17 applicants with detailed guidelines on what to say and what not to say on their DEI  
18 statements.

19           37. On the main "Diversity" page for the UC Santa Cruz Office of Academic  
20 Personnel (APO), UC Santa Cruz makes clear that the University's understanding of  
21 diversity is about hiring and promoting individuals from specific racial and ethnic  
22 groups.

23           38. APO defines the terms "diversity," "equity," and "inclusion" in a specific  
24 manner that ensures successful applicants adhere to a particular ideology and  
25 worldview.

26           39. APO goes on to explain that DEI statements are evaluated in three  
27 categories: awareness, experience, and future plans at UC Santa Cruz.  
28

1           40. Ideas and beliefs that applicants are supposed to convey are embedded  
2 throughout APO's expectations but particularly captured under the "awareness"  
3 heading.

4           41. Experience and future plans are evaluated based on an applicant's past  
5 or planned contributions to diversity, equity, and inclusion in teaching, research and  
6 professional work, and service and professional activities. The activities and  
7 contributions applicants are asked to discuss are thinly veiled proxies for particular  
8 beliefs that the administration favors.

9           42. The main diversity page also links to a "starting rubric," to further drive  
10 home to applicants exactly what they must say to pass through the DEI filter.<sup>1</sup>

11           43. To receive a high score under the terms set by the rubric, an applicant  
12 must express agreement with specific sociopolitical ideas, including the view that  
13 treating individuals differently based on their race or sex is desirable.

14           44. The rubric evaluates DEI statements based on the three criteria  
15 mentioned above: awareness (or "knowledge," as the rubric describes it), experience,  
16 and future plans, with a scoring range of 1–5 for each. 1–2 represents a low score, 3  
17 represents a mixed score, and 4–5 represents a high score.

18           45. For each criterion, high scores are reserved for those who promise to  
19 adhere to a specific world view that requires treating individuals differently according  
20 to race.

21           46. Under the rubric, low scores are specifically promised for applicants that  
22 believe race and sex should not be used to judge individuals.

23           47. Further orthodoxy for applicants to recite is provided on a list on APO's  
24 website of "common myths" about DEI in faculty recruitment and hiring under its  
25 "Academic Recruitment Resources" page.<sup>2</sup>

---

26 <sup>1</sup> See UCSC Starting Rubric to Assess Candidate Contributions to Diversity, Equity,  
27 and Inclusion, <https://apo.ucsc.edu/docs/ucsc-rubrics-c2deistatements.pdf>.

28 <sup>2</sup> See UC Merced Academic Personnel Office, *Addressing Common Myths About*

1           48. In the common myths document, among other things, the University  
2 makes clear its commitment to race-centric hiring and its focus on silencing dissent  
3 on these issues.

4           49. This document sends a clear message to applicants: those who reject DEI  
5 orthodoxy will demonstrate a low “understanding” or “awareness” of DEI and will not  
6 be considered for a position at UC Santa Cruz.

7           50. Finally, UC Santa Cruz’s Psychology Department has a page for  
8 Resources on Antiracism under the heading of “DEI Resources.”<sup>3</sup>

9           51. This page embraces without reservation numerous controversial political  
10 and ideological perspectives, including the ideas of controversial author Ibram Kendi,  
11 linking to and endorsing multiple speeches and works.

12           52. The documents on this page are not presented as academic research, or  
13 as the individual perspectives of particular professors, but as the official view of UC  
14 Santa Cruz’s Psychology Department.

15           53. Individually and collectively, the guidelines, rubrics, and reference  
16 materials are intended to require applicants to repeatedly attest to particular beliefs  
17 to be considered for a position.

18           54. The mandatory beliefs have nothing to do with the University’s mission,  
19 the qualifications for any given tenure-track position, or professional standards for  
20 academics. They are about propagating the ephemeral political ideology of the  
21 Administration.

22           55. Both the DEI Statement Requirement and the Initial Screening  
23 Requirement are applicable to every faculty job opening at UC Santa Cruz.

24           56. The combined result of this DEI Statement Requirement and the Initial  
25 Screening Requirement has created a situation where applicants who fail to

---

26 *Diversity and Equity in Faculty Recruitment and Hiring*,  
27 <https://academicpersonnel.ucmerced.edu/common-myths-about-diversity-and-equity>.

28 <sup>3</sup> See UC Santa Cruz Psychology Department, *Resources on Antiracism*,  
<https://psychology.ucsc.edu/about/dei/dei-resources.html>.



1 demonstrate conformity with the beliefs and ideology represented on the APO website  
2 know that their application is futile.

3 57. This process has the intent and the effect of driving contrary ideas and  
4 viewpoints out of the marketplace of academic hiring.

### 5 **Dr. Haltigan's Job Search**

6 58. Dr. Haltigan first learned about a position at UC Santa Cruz which fit  
7 his background and interests in early 2023.

8 59. At the time, Dr. Haltigan was (and remains) in a nationwide search for  
9 a tenure track position at a university.

10 60. Dr. Haltigan's job search is directed at places he would want to live and  
11 work, and to departmental openings that fit with his background and interests.

12 61. Academic jobs generally require the same materials for each application.  
13 Every academic job application requires at least a cover letter, a research statement,  
14 a teaching statement, and a curriculum vitae.

15 62. Job applicants for academic jobs seldom tailor these materials for the  
16 individual position at issue. Applicants often submit the same materials to every  
17 position they apply to, only changing a few words in the cover letter.

18 63. Many academic jobs also require some sort of statement on diversity. For  
19 these statements, candidates often reuse or slightly rework existing statements.

20 64. Dr. Haltigan applied to more than ten academic jobs in 2023, including  
21 multiple openings in California.

22 65. Dr. Haltigan's CV, attached as Exhibit A,<sup>4</sup> states that Dr. Haltigan  
23 obtained his PhD in Developmental Psychology from the University of Miami in 2009.

24 66. After obtaining his doctorate, Dr. Haltigan served as a postdoctoral  
25 fellow first at the University of Illinois at Urbana-Champaign (until 2011), then at the  
26

---

27 <sup>4</sup> Although the attached application documents are from September of 2023, they  
28 reflect only minor changes in the time since the complaint was filed and Dr. Haltigan  
keeps all these materials ready to go at all times.

1 University of North Carolina at Greensboro (until 2013), then at the University of  
2 Ottawa (until 2016). *Id.*

3 67. From 2016 until earlier this year, Dr. Haltigan was an Assistant  
4 Professor in the Department of Psychiatry at the University of Toronto. *Id.*

5 68. His research interests include “the legacy of early caregiving experiences  
6 on child and adolescent environment”; “life history”; “[m]easurement and  
7 classification of child and adolescent psychopathology”; and “[l]ongitudinal data  
8 modeling.” *Id.*

9 69. Dr. Haltigan has been a coinvestigator on several research programs  
10 operating under federal and other grants, has over 60 publications to his name, and  
11 has several additional manuscripts under review. *Id.*

12 70. Dr. Haltigan’s Research Statement, attached as Exhibit B, further states  
13 that his “research program investigates the structure, determinants, course, and co-  
14 occurrence of child and adolescent mental and physical illness” and highlights  
15 quantitative approaches to address both basic and applied questions in developmental  
16 science. *Id.*

17 71. Dr. Haltigan’s teaching statement, attached as Exhibit C, explains the  
18 importance to him of “passionate and personalized subject matter,” and discusses his  
19 long history teaching and mentoring a diverse array of students.

20 72. A sample cover letter that Dr. Haltigan used for a university application  
21 in 2023 is attached as Exhibit D.

22 73. A sample of significant article reprint or preprints that Dr. Haltigan  
23 included in a university application in 2023 is attached as Exhibit E.

24 **Dr. Haltigan’s DEI Statement**

25 74. In the midst of his job search, in February 2023, Dr. Haltigan posted a  
26 DEI statement he submitted with a recent job application to a university opening on  
27 his Substack newsletter. *See* Exhibit F.

1           75. As the introductory paragraph explains, Dr. Haltigan submitted the DEI  
 2 statement to a job because he “strongly believe[s] taking a principled stand against  
 3 the use of the DEI rubric in the Academy is crucial for the continued survival of our  
 4 institutions of higher learning as they were intended: bastions of the unfettered  
 5 pursuit of knowledge and truth and the immersion of its students into the principles  
 6 of liberal discourse and the development of critical thought.” *Id.*

7           76. Dr. Haltigan’s posted DEI Statement states “I am committed to  
 8 colorblind inclusivity, viewpoint diversity, merit-based evaluation, and value outreach  
 9 to underrepresented groups in higher education. Across all of my teaching and  
 10 mentorship, I have endeavored to treat students and mentees equally, without regard  
 11 to identity-based characteristics.” *Id.*

12           77. Dr. Haltigan’s DEI statement expressed his fear of being discriminated  
 13 against due to his viewpoint, observing that “[s]everal recent investigative journalism  
 14 efforts have documented how DEI statements have been used to screen and penalize  
 15 applicants for not possessing ‘correct’ political ideas or endorsing activist ideologies,  
 16 such as the ‘anti-racist’ strand of ‘scholarship’ developed and promoted by Ibram  
 17 Kendi as well as concepts such as ‘intersectionality.’” *Id.*

18           78. Dr. Haltigan also writes that he has “provided mentorship to several  
 19 students from underrepresented minority groups. Many of these students explicitly  
 20 sought out my mentorship due to my clear position, communicated on social media,  
 21 that I reject activist ‘scholarship’ that is neither conceptually coherent nor  
 22 methodologically sound.” *Id.*

### 23           **UC Santa Cruz’s Psychology Department’s Job Opening**

24           79. On July 21, 2022, UC Santa Cruz posted an open hiring announcement  
 25 for a tenure-track position in Developmental Psychology. *See* Exhibit G.

26           80. The position stated that the University was “particularly interested in  
 27 developmental psychology scholars whose research addresses diversity in human  
 28 development. In addition, we seek a scholar whose research addresses the intersection

1 of developmental psychology and global and/or community health. Health here is  
2 broadly construed to include psychological, mental or physical health with a focus on  
3 the well-being of children and youth in their families, peer relations, schools, and/or  
4 cultural communities.” *Id.*

5 81. As with every position at UC Santa Cruz in the Division of Social  
6 Sciences, the Psychology Department requires a DEI statement in order to apply, and  
7 “urges” candidates to review the scoring rubric explained above. *Id.*

8 82. It also makes clear that, consistent with University policy, an initial  
9 screening of candidates will be performed using only the DEI statement and a  
10 research statement.

11 83. In addition to the DEI Statement, the applicant must submit a cover  
12 letter, a curriculum vitae, a research statement, a teaching statement, and significant  
13 article reprint or preprints.

14 84. Dr. Haltigan’s application materials at Exhibits A–E satisfy these  
15 requirements and could have been submitted to UC Santa Cruz with only minor edits  
16 to the cover letter.

17 85. UC Santa Cruz posts similar openings in the psychology department on  
18 an annual basis. On September 1, 2023, the University posted a hiring announcement  
19 for an assistant or associate professor in “quantitative psychology.” *See* Exhibit H.

20 86. This hiring announcement seeks a candidate with a “PhD in  
21 Quantitative Psychology or in another field of Psychology” as long as they have  
22 expertise in quantitative methods and demonstrated excellence in teaching statistics.  
23 Dr. Haltigan meets these requirements and is currently teaching statistics at the  
24 undergraduate level at University of Miami.

25 87. This posting, like the other, is conditional on the University’s  
26 ideologically demanding DEI Statement requirement.

27 88. Dr. Haltigan expects the University to continue posting job opportunities  
28 that he is interested in going forward.

### Dr. Haltigan's Application Is Futile

89. Although Dr. Haltigan has over a decade of experience teaching and mentoring students from all backgrounds, his views on DEI rendered an application to UC Santa Cruz futile.

90. Dr. Haltigan is aware of research and investigative reports showing that candidates are often eliminated based on DEI statements alone.

91. For example, a self-survey conducted by UC Santa Cruz's sister school UC Berkeley found that, in one particular faculty search, 76% of applicants were eliminated solely on the basis of their diversity statements.<sup>5</sup>

92. This is consistent with UC Santa Cruz's approach to using DEI Statements as part of the initial screening process—the University seeks to eliminate candidates with DEI Statements below certain benchmarks without having to consider the application in more detail.

93. The University's public statements—on its Department of Psychology webpage, on the various hiring resources pages through the APO website, and through its DEI Statement scoring rubric—make it clear that Dr. Haltigan's application would have ended up discarded without consideration of his qualifications entirely on the basis of his views as expressed in the DEI Statement.

94. A cursory examination of the DEI rubric and other materials used by the University shows that Dr. Haltigan's views on DEI would have led to the dismissal of his application without due consideration. Dr. Haltigan's statements on colorblind meritocracy, his commitment to viewpoint diversity, his skepticism of scholars like Ibram Kendi, his intention to treat all scholars the same regardless of identity-based characteristics, and his rejection of the concepts of intersectionality and "anti-racism",

---

<sup>5</sup> See, e.g., Greg Lukianoff and Rikii Schlott, *Universities Use DEI Statements To Enforce Groupthink*, Reason Magazine (Jan. 6, 2024) (discussing UC self-surveys and other evidence on the importance of DEI Statements and their value in enforcing viewpoint uniformity).

1 just to start, all are statements that run directly contrary to the materials posted by  
2 the University for applicants.

3 95. It is unlikely that the DEI Statement posted on Dr. Haltigan's Substack  
4 would receive better than a 1–2 on any category of the DEI Rubric. Many of the  
5 statements Dr. Haltigan makes in his DEI Statement are expressly rejected or treated  
6 scornfully in the materials linked on UC Santa Cruz's Academic Personnel Office  
7 website.

8 96. His views on these issues are all protected by the First Amendment and  
9 have no bearing on his ability to perform the job in question.

10 97. If Dr. Haltigan were to have applied for this position, or any others at  
11 UC Santa Cruz, he would be compelled to alter his behavior and either remain silent  
12 about the many important social issues addressed by the DEI Statement Requirement  
13 or recant his views to conform to the dictates of the University administration.

14 98. The University's policy is that those with views like Dr. Haltigan on  
15 issues related to DEI will not be considered beyond an initial screening. This is  
16 unconstitutional.

17 **First Claim for Relief:**

18 **Violation of the First Amendment of the United States Constitution**

19 **Unconstitutional Conditions**

20 99. Plaintiff hereby realleges and incorporates by reference the allegations  
21 contained in the previous paragraphs.

22 100. Defendants are acting under the "color of state law" within the meaning  
23 of 42 U.S.C. § 1983 in imposing and enforcing a DEI Statement Requirement on all  
24 applicants for faculty positions.

25 101. Defendants are denying a benefit to Plaintiff in a manner that infringes  
26 his First Amendment rights.

27 102. Defendants are requiring Dr. Haltigan to express ideas with which he  
28 disagrees in order to be eligible for employment. This is an unconstitutional form of

1 compelled speech and is unconstitutional even when that requirement is tied to a  
2 government benefit to which the speaker is not entitled.

3 103. The DEI Statement Requirement forces applicants to UC Santa Cruz to  
4 express agreement with the University's views on racism and social justice, and  
5 ultimately seeks to regulate speech outside the contours of the program.

6 104. The DEI Statement Requirement unconstitutionally leverages the  
7 availability of a position at the University to force applicants to express agreement  
8 with the University's ideology.

9 105. The DEI Statement Requirement places anyone with Dr. Haltigan's  
10 views who wants to work at the University of California in an untenable position. One  
11 can either file an honest, but doomed, application, or one can lie and recant his or her  
12 honest views. Silence and dissent are not options if he or she wants to progress past  
13 the initial screening.

14 106. Because the DEI Statement Requirement requires Dr. Haltigan to affirm  
15 particular beliefs that are inherently separate from the qualifications for a position on  
16 the University's faculty or the purpose of the University as a whole, it imposes a  
17 condition on employment that would be unconstitutional if done outright.

18 **Second Claim for Relief:**

19 **Violation of the First Amendment of the United States Constitution**

20 **Viewpoint Discrimination**

21 107. Plaintiff hereby realleges and incorporates by reference the allegations  
22 contained in the previous paragraphs.

23 108. Defendants are acting under the "color of state law" within the meaning  
24 of 42 U.S.C. § 1983 in imposing and enforcing a DEI Statement Requirement on all  
25 applicants for faculty positions.

26 109. The DEI Statement Requirement represents invidious viewpoint  
27 discrimination against any applicant holding views contrary to the detailed ideological  
28 standards set out in the DEI rubric and other guidance documents.

110. The purpose of the DEI Statement Requirement is to penalize certain viewpoints and drive those viewpoints from the marketplace of academic hiring.

111. Dr. Haltigan's views on colorblind inclusivity, viewpoint diversity, and merit-based promotion and hiring are all anathema to the University's express requirements in the DEI Statement.

112. The DEI Statement Requirement has no relationship to established professional standards, the University's mission, or the qualifications for a position on the University's faculty.

113. Because the DEI Statement Requirement is not tailored to any compelling interest, it is unconstitutional.

### **Request for Relief**

Plaintiff respectfully requests the following relief:

- A. A declaration that the DEI Statement Requirement employed by UC Santa Cruz violates the First Amendment to the United States Constitution;
- B. A permanent injunction forbidding UC Santa Cruz and University of California officials from enforcing, or attempting to enforce, the DEI Statement Requirement against Dr. Haltigan;
- C. An award of attorneys' fees, costs, and expenses in this action pursuant to 42 U.S.C. § 1988;
- D. Such other relief as this Court deems proper.

DATED: February 2, 2024.

Respectfully submitted,

JOSHUA P. THOMPSON  
WILSON C. FREEMAN\*  
JACK E. BROWN\*

By /s/ Wilson C. Freeman  
WILSON C. FREEMAN\*  
*Attorney for Plaintiff*  
*\*pro hac vice*



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on February 2, 2024, Opposing Counsel received the foregoing Plaintiff's Second Amended Complaint via CM/ECF service.

By /s/ Wilson C. Freeman  
WILSON C. FREEMAN\*

*Attorney for Plaintiff*  
*\*pro hac vice*